

UNITED STATES DISTRICT COURT
 for the
 Western District of New York

United States of America)
 v.)
)
 MICHAEL A. STEWART,) Case No.
)
)
)
)
 Defendant(s)) 21-MJ-644

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 5, 2021 in the county of Monroe in the

Western District of New York, the defendant(s) violated:

Code Section

Title 21, United States Code,
 Section 841(a)(1)

Offense Description

Manufacturing, Distributing, Dispensing or Possessing with Intent to
 Manufacture, Distribute or Dispense Controlled Substances

Title 18, United States Code,
 Section 924(c)(1)(A)

Possessing a Firearm in Furtherance of a Drug Trafficking
 Crime

This criminal complaint is based on these facts:

See attached affidavit of DEA TFO Alex Kirkpatrick

Continued on the attached sheet.

Complainant's signature

DEA TFO Alex Kirkpatrick

Printed name and title

Affidavit and Complaint submitted electronically by email
 in .pdf format. Oath administered, and contents and signature,
 attested to me as true and accurate telephonically pursuant to
 Fed. R. Crim.P. 4.1 and 4 (d) on:

Mark Pedersen
Judge's signature

Date: 08/05/2021

City and state: Rochester, New York

Hon Mark W. Pedersen, U.S. Magistrate Judge

Printed name and title

,IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

AFFIDAVIT

MICHAEL A. STEWART

21-MJ-644

Defendant.

State of New York)
County of Monroe) ss
City of Rochester)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, ALEX KIRKPATRICK, being duly sworn, depose and state:

1. I have been a Task Force Officer with the Drug Enforcement Administration (DEA) since May of 2020, and I am currently assigned to the DEA Rochester Resident Office. Prior to becoming a DEA Task Force Officer, I became a Police Officer with the Webster Police Department in 2013. During my employment with the Webster Police Department, I completed the Basic Course for Police Officers for six months at the Monroe County Public Safety Training Center, located in Rochester, NY and four months of field training. This training included familiarization of the physical characteristics, packaging, and field testing of illegal drugs and narcotics. I served as a Police Officer with the Webster Police Department, assigned to Patrol Division, from the completion of that training until December of 2017. In December of 2017, I was assigned to the Criminal Investigation Section of the Webster Police Department. I was then assigned to the Drug Enforcement Administration (DEA) Task Force Rochester in May of 2020. During my career with the Webster Police

Department I have attended numerous courses related criminal investigations including a two week Basic Investigations School in 2018 in Rochester, NY and a one week Task Force Officer School in 2021, in Quantico, VA. I have had the opportunity to conduct, coordinate, and/or participate in a number of successful investigations involving burglaries, robberies, weapons possession, narcotics possession, narcotics sales, arsons, assaults, sexual assaults, larcenies, and homicides. I have interviewed numerous defendants, victims, witnesses, and others who have been involved in or have knowledge of such crimes, including investigations relating to weapons and/or narcotics possession and/or sales. I am familiar with the methods of use, effects, distribution, appearance, as well as the methods of manufacture of controlled substances. I have been the affiant on multiple search warrants. During my time in the Criminal Investigation Section, and the DEA Rochester Resident Office, I have participated in long-term narcotics investigations that utilized the court-authorized interception of wire communications that resulted in the arrest of drug distributors, and seizures of quantities of controlled substances and firearms. I am familiar with the habits, methods, routines, practices and procedures commonly employed by persons engaged in the armed trafficking of illegal drugs. In addition, I have had the opportunity to work with other experienced narcotics officers on the Local, State, and Federal levels that all possess varying levels of experience and who have all investigated drug distribution networks and individual distributors. These narcotics officers have further provided your affiant with a basis of knowledge and further educated your affiant on the various characteristics and/or methods of distribution of these trafficking organizations and/or individual distributors.

2. This affidavit is submitted in support of a criminal complaint against Michael A. STEWART (hereinafter “STEWART”) for violations of Title 21, United States Code, Section 841(a)(1) (Manufacturing, Distributing, Dispensing or Possessing with Intent to Manufacture, Distribute or Dispense Schedule I Controlled Substances) and Title 18, United States Code, Section 924(c)(1)(A) (Possessing a Firearm in furtherance of a Drug Trafficking Crime). The assertions made herein are based solely upon my personal knowledge or upon information I have received from this investigation. Further, I have had discussions with officers involved in this investigation who have confirmed the accuracy of the information contained within this affidavit. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only those facts that relate to the issue of whether probable cause exists to believe that the defendant committed the above-mentioned offenses. In support thereof, I respectfully state the following:

Execution of New York State Search Warrant

3. On August 5, 2021, at approximately 6:10 a.m., members of the DEA Rochester Resident Office Task Force executed a New York State search warrant at the residence located at 686 Dewey Avenue, Rochester, NY (“Target Location”). The subject of the investigation was Michael A. STEWART, who resides at the location. The search warrant was authorized by the Hon. Karen Bailey Turner, Monroe County Court, and signed on July 28, 2021. The Target Location is a duplex, designated 684 and 686. The search warrant was solely for the residence located at 686 Dewey Avenue. Upon entry into the

location, Task Force members encountered two individuals, including C.J.K., who was located on the third floor attic. R.T. was located on the second floor, guest bedroom. Both individuals were detained.

4. Upon inquiry, it was learned that the subject of the investigation, Michael A. STEWART, was not home at the time, but was possibly at 3 Authorian Way, Chili, New York. Members of the DEA Rochester Resident Office went to that address and located STEWART who agreed to come out of the residence where he was detained. STEWART was transported back to the DEA Rochester Resident Office for further investigation.

686 Dewey Avenue, Rochester, New York

5. Upon searching the Target Location, members of the DEA Rochester Resident Office searched the kitchen and living room area and located a 12 gauge pump action shotgun, Ithaca, Model number 37 Feather light bearing serial number 371480653 under a couch. There was a box of 12 gauge ammunition with the shotgun. Immediately next to the couch was a table with a black filing cabinet on top. Inside of the filing cabinet was a quantity of marijuana pre-packaged for sale, concentrated cannabis cartridges pre-packaged for sale, and approximately 230 grams of psychedelic mushrooms (psilocybin). There were also various empty glassine and foil packages located next to said items. Marijuana, cannabis and psilocybin are Schedule I controlled substances.

6. Upon search of the master bedroom where STEWART resided, Task Force officers located a .22 caliber pistol, Jennings, model number J-22 bearing serial number 260610, with a loaded magazine next to it. Nearby the cabinet was a shelf containing quantities of marijuana pre-packaged for sale, as well as additional amounts of concentrated cannabis "edibles." Next to the bed, leaning against the wall, Task Force officers observed a .556 semi-automatic rifle (American Tactical upper receiver), with no serial number affixed to the lower receiver. Next to that gun was a 12 gauge pump action shotgun, Westernfield, model M550AR, with no serial number affixed to it.

7. In the same master bedroom, Task Force officers located a safe in the closet. Inside, approximately \$1,900 of US Currency in 100's and 20's was located. In the same safe, officers located approximately 2,882 dosage units of LSD, a Schedule I controlled substance. Located underneath the safe was another safe containing quantities of marijuana in 1 pound bags and pre-packaged for sale. The total amount of marijuana is approximately 10 pounds. Located throughout the master bedroom were numerous empty and unused glassine bags and foil packaging consistent with those found in the black filing cabinet. On top of another dresser was a money counter. Inside of the dresser various pistol and rifle magazines were located, all of which were loaded. Various ammo boxes of various calibers were also located throughout the master bedroom. A utility bill was located in master bedroom with the name of "Michael STEWART, 686 Dewey Avenue, Rochester, NY".

8. Given the amount and different types of controlled substances that were found, including concentrated cannabis, marijuana, LSD and psychedelic mushrooms, as well as

packaging materials, it is the opinion of this writer that the controlled purchases were not for personal or individual consumption.

Search of STEWART

9. Upon searching STEWART, members of the DEA Rochester Resident Office located approximately 637 dosage units of LSD, a cell phone and a small quantity of marijuana.

Interview of STEWART

10. STEWART was interviewed at the DEA Rochester Resident Office where he waived his *Miranda* Rights. STEWART stated, in sum and substance that he is the primary renter at the Target Location. He stated that C.J.K. and R.T. rent rooms inside the same residence. STEWART admitted that the master bedroom was his bedroom. STEWART stated that he sells approximately a pound of marijuana a week for the past two years. He also admitted that he sells LSD, psychedelic mushrooms and concentrated cannabis products to various customers. STEWART stated that he has been robbed in the past and now carries the .22 pistol with him when he purchases and sells his various controlled substances. STEWART stated that he keeps the gun with him for protection in case he needs to use it, however he has never actually had to use it. He stated that he is only selling enough drugs to pay for his bills and spending money. STEWART was very firm that all of the drugs, firearms and paraphernalia inside of the Target Location were his and did not belong to C.J.K. or R. T. STEWART did acknowledge that R.T. would periodically will sell quantities of marijuana for him while he wasn't home.

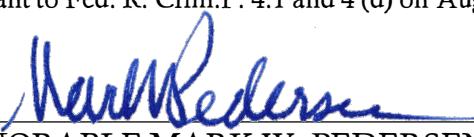
Criminal History

11. According to his eJustice Criminal History, on or about March 4th, 2014, STEWART was convicted of Attempted Criminal Possession of a Controlled Substance 7th, in violation of New York State Penal Law Section 220.03, a Class B Misdemeanor.

12. Based on the above information, your affiant submits there is probable cause to believe that on or about, August 5, 2021, in the City of Rochester, County of Monroe, Western Judicial District of New York, Michael A. STEWART violated Title 21, United States Code, Section 841(a)(1) (Manufacturing, Distributing, Dispensing or Possessing with Intent to Manufacture, Distribute or Dispense Schedule I Controlled Substances) and Title 18, United States Code, Section 924(c)(1)(A) (Possessing a Firearm in Furtherance of a Drug Trafficking Crime).


TFO 
ALEX KIRKPATRICK
Task Force Officer
Drug Enforcement Administration

Affidavit and Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed. R. Crim.P. 4.1 and 4 (d) on August 5, 2021:


HONORABLE MARK W. PEDERSEN
United States Magistrate Judge